

Federal Communications Commission

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The **Federal Communications Commission (FCC)** is an independent agency of the United States government, created by Congressional statute (see 47 U.S.C. § 151 (<https://www.law.cornell.edu/uscode/text/47/151>) and 47 U.S.C. § 154 (<https://www.law.cornell.edu/uscode/text/47/154>)) to regulate interstate communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories. The FCC works towards six goals in the areas of broadband, competition, the spectrum, the media, public safety and homeland security, and modernizing itself.^[4]

The FCC was formed by the Communications Act of 1934 to replace the radio regulation functions of the Federal Radio Commission. The FCC took over wire communication regulation from the Interstate Commerce Commission. The FCC's mandated jurisdiction covers the 50 states, the District of Columbia, and Political divisions of the United States. The FCC also provides varied degrees of cooperation, oversight, and leadership for similar communications bodies in other countries of North America. The FCC is funded entirely by regulatory fees. It has an estimated fiscal-2016 budget of US\$388 million. It has 1,720 federal employees.^[2]

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Federal Communications Commission

FCC



official seal



logo

Agency overview

Formed	June 19, 1934
Preceding agency	Federal Radio Commission
Jurisdiction	Federal government of the United States
Headquarters	445 12th Street SW, Washington, D.C. <div>38°53′00″N 77°01′44″W﻿ / ﻿</div>
Employees	1,720 ^[1]
Annual budget	US\$388 million (FY 2016, requested) ^[2]
Agency executive	Thomas Wheeler, Chairman
Website	www.fcc.gov (http://www.fcc.gov/)

Footnotes

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Mission and strategy

The FCC's mission, specified in Section One of the Communications Act of 1934 and amended by the Telecommunications Act of 1996 (amendment to 47 U.S.C. §151) is to "make available so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, rapid, efficient, Nationwide, and world-wide wire and radio communication services with adequate facilities at reasonable charges." The Act furthermore provides that the FCC was created "for the purpose of the national defense" and "for the purpose of promoting safety of life and property through the use of wire and radio communications."^[4]

Consistent with the objectives of the Act as well as the 1993 Government Performance and Results Act (GPRA), the FCC has identified six goals in its 2006–2011 Strategic Plan. These are:

Broadband

"All Americans should have affordable access to robust and reliable broadband products and services. Regulatory policies must promote technological neutrality, competition, investment, and innovation to ensure that broadband service providers have sufficient incentives to develop and offer such products and services."

Competition

"Competition in the provision of communication services, both domestically and overseas, supports the Nation's economy. The competitive framework for communications services should foster innovation and offer consumers reliable, meaningful choice in affordable services."

Spectrum

"Efficient and effective use of non-federal spectrum domestically and internationally promotes the growth and rapid development of innovative and efficient communication technologies and services."

Media

"The Nation's media regulations must promote competition and diversity and facilitate the transition to digital modes of delivery."

Public Safety and Homeland Security

"Communications during emergencies and crisis must be available for public safety, health, defense, and emergency personnel, as well as all consumers in need. The Nation's critical communications infrastructure must be reliable, interoperable, redundant, and rapidly restorable."

Modernize the FCC

"The Commission shall strive to be highly productive, adaptive, and innovative organization that maximizes the benefits to stakeholders, staff, and management from effective systems, processes, resources, and organizational culture."^[4]

Organization and procedures

Commissioners

The FCC is directed by five commissioners appointed by the President of the United States and confirmed by the United States Senate for five-year terms, except when filling an unexpired term. The U.S. President designates one of the commissioners to serve as chairman. Only three commissioners may be members of the same political party. None of them may have a financial interest in any FCC-related business.^{[3][5]}

Name	Position	Residence	Party	Term Expires
Jessica Rosenworcel	Commissioner	Connecticut	D	June 30, 2015
Ajit Pai	Commissioner	Kansas	R	June 30, 2016
Mignon Clyburn	Commissioner	South Carolina	D	June 30, 2017
Thomas Wheeler	Chairman	District of Columbia	D	June 30, 2018
Michael O'Rielly	Commissioner	New York	R	June 30, 2019

Importantly, commissioners may continue serving until the appointment of their replacements, but may not serve beyond the end of the *next* session of Congress following term expiration.^[6] In practice, as of 2016 this means that commissioners may serve up to 1 1/2 years beyond the official term expiration dates listed above if no replacement is appointed.

Bureaus

The FCC is organized into seven Bureaus,^[7] which process applications for licenses and other filings, analyze complaints, conduct investigations, develop and implement regulations, and participate in hearings.

- The **Consumer & Governmental Affairs Bureau** (CGB) develops and implements the FCC's consumer policies, including disability access. CGB serves as the public face of the FCC through outreach and education, as well as through their Consumer Center, which is responsible for responding to consumer inquiries and complaints. CGB also maintains collaborative partnerships with state, local, and tribal governments in such areas as emergency preparedness and implementation of new technologies.
- The **Enforcement Bureau** (EB) is responsible for enforcement of provisions of the Communications Act 1934, FCC rules, FCC orders, and terms and conditions of station authorizations. Major areas of enforcement that are handled by the Enforcement Bureau are consumer protection, local competition, public safety, and homeland security.
- The **International Bureau** (IB) develops international policies in telecommunications, such as coordination of frequency allocation and orbital assignments so as to minimize cases of international electromagnetic

interference involving U.S. licensees. The International Bureau also oversees FCC compliance with the international Radio Regulations and other international agreements.

- The **Media Bureau** (MB) develops, recommends and administers the policy and licensing programs relating to electronic media, including cable television, broadcast television, and radio in the United States and its territories. The Media Bureau also handles post-licensing matters regarding direct broadcast satellite service.
- The **Wireless Telecommunications Bureau** regulates domestic wireless telecommunications programs and policies, including licensing. The bureau also implements competitive bidding for spectrum auctions and regulates wireless communications services including mobile phones, public safety, and other commercial and private radio services.
- The **Wireline Competition Bureau** (WCB) develops policy concerning wire line telecommunications. The Wireline Competition Bureau's main objective is to promote growth and economical investments in wireline technology infrastructure, development, markets, and services.
- The **Public Safety and Homeland Security Bureau** was launched in 2006 with a focus on critical communications infrastructure.^[8]

Offices

The FCC has eleven Staff Offices.^[7] The FCC's Offices provide support services to the Bureaus.

- The **Office of Administrative Law Judges** (OALJ) is responsible for conducting hearings ordered by the Commission. The hearing function includes acting on interlocutory requests filed in the proceedings such as petitions to intervene, petitions to enlarge issues, and contested discovery requests. An Administrative Law Judge, appointed under the Administrative Procedure Act, presides at the hearing during which documents and sworn testimony are received in evidence, and witnesses are cross-examined. At the conclusion of the evidentiary phase of a proceeding, the presiding Administrative Law Judge writes and issues an Initial Decision which may be appealed to the Commission.
- The **Office of Communications Business Opportunities** (OCBO) promotes telecommunications business opportunities for small, minority-owned, and women-owned businesses. OCBO works with entrepreneurs, industry, public interest organizations, individuals, and others to provide information about FCC policies, increase ownership and employment opportunities, foster a diversity of voices and viewpoints over the airwaves, and encourage participation in FCC proceedings.
- The **Office of Engineering and Technology** (OET) advises the Commission concerning engineering matters.
 - Its chief role is to manage the electromagnetic spectrum, specifically frequency allocation and spectrum usage. OET conducts technical studies of advanced phases of terrestrial and space communications and administers FCC rules regarding radio devices, experimental radio services, and industrial, scientific, and medical equipment.
 - OET organizes the Technical Advisory Council, a committee of FCC advisors from major telecommunication and media corporations.
 - OET operates the Equipment Authorization Branch, which has the task of overseeing equipment authorization for all devices using the electromagnetic energy from 9 kHz to 300 GHz. OET maintains an electronic database of all Certified equipment which can be easily accessed by the public.
- The **Office of General Counsel** serves as the chief legal adviser to the Commission. The General Counsel also represents the Commission in litigation in United States federal courts, recommends decisions in adjudicatory matters before the Commission, assists the Commission in its decision making capacity and performs a variety of legal functions regarding internal and other administrative matters.
- The **Office of the Inspector General** (OIG) recommends policies to prevent fraud in agency operations. The Inspector General recommends corrective action where appropriate, referring criminal matters to the United States Department of Justice for potential prosecution.
- The **Office of Legislative Affairs** (OLA) is the FCC's liaison to the United States Congress, providing lawmakers with information about FCC regulations. OLA also prepares FCC witnesses for Congressional hearings, and helps create FCC responses to legislative proposals and Congressional inquiries. In addition, OLA is a liaison to other federal agencies, as well as state and local governments.

- The **Office of the Managing Director** (OMD) is responsible for the administration and management of the FCC, including the agency's budget, personnel, security, contracts, and publications.
- The **Office of Media Relations** (OMR) is responsible for the dissemination of Commission announcements, orders, proceedings, and other information per media requests. OMR manages the FCC Daily Digest, website, and Audio Visual Center.
- The **Office of the Secretary** (OSEC) oversees the receipt and distribution of documents filed by the public through electronic and paper filing systems and the FCC Library collection. In addition, OSEC publishes legal notices of Commission decisions in the Federal Register and the FCC Record.
- The **Office of Strategic Planning & Policy Analysis** (OSP), essentially a think tank within the FCC, identifies policy objectives for the agency. OSP works closely with the FCC Chairman and is responsible for monitoring the state of the communications industry to identify trends, issues and overall industry health. OSP acts as expert consultants to the Commission in areas of economic, business, and market analysis. The Office also reviews legal trends and developments not necessarily related to current FCC proceedings, such as intellectual property law, the Internet, and electronic commerce. Previously OSP was called the Office of Plans and Policy (OPP). OSP is also the home of the FCC's Chief Economist and the Chief Technologist.
- The **Office of Workplace Diversity** (OWD) develops policy to provide a full and fair opportunity for all employees, regardless of non-merit factors such as race, religion, gender, color, age, disability, sexual orientation or national origin, to carry out their duties in the workplace free from unlawful discriminatory treatment, including sexual harassment and retaliation for engaging in legally protected activities.

Headquarters

The FCC leases space in the Portals building in southwest Washington, D.C. Construction of the Portals building was scheduled to begin on March 1, 1996. In January 1996 the General Services Administration signed a lease with the building's owners, agreeing to let the FCC lease 450,000 square feet (42,000 m²) of space in Portals for 20 years, at a cost of \$17.3 million per year in 1996 dollars. Prior to its current arrangement, the FCC had space in six buildings by 19th Street NW and M Street NW. The FCC first solicited bids for a new headquarters complex in 1989. In 1991 the GSA selected the Portals site. The FCC had wanted to move into a more expensive area along Pennsylvania Avenue.^[9]



Federal Communications Commission in Washington, D.C.

History

Communications Act of 1934

In 1934, Congress passed the Communications Act, which abolished the Federal Radio Commission and transferred jurisdiction over radio licensing to a new Federal Communications Commission, including in it also the telecommunications jurisdiction previously handled by the Interstate Commerce Commission. Title II of the Communications Act focused on telecommunications using many concepts borrowed from railroad legislation and Title III contained provisions very similar to the Radio Act of 1927.

Report on Chain Broadcasting

In 1940, the Federal Communications Commission issued the "Report on Chain Broadcasting" which was led by new FCC Chairman James Lawrence Fly. The major point in the report was the breakup of NBC (National Broadcasting Company), which ultimately led to the creation of ABC (American Broadcasting Company), but there were two other important points. One was network option time, the culprit here being CBS (an initialism of the network's former name, the Columbia Broadcasting System). The report limited the amount of time during the day, and what times the networks may broadcast. Previously a network could demand any time it wanted from an

affiliate. The second concerned artist bureaus. The networks served as both agents and employers of artists, which was a conflict of interest the report rectified.^[10]

Freeze of 1948

In assigning television stations to various cities after World War II, the FCC found that it placed many stations too close to each other, resulting in interference. At the same time, it became clear that the designated VHF channels, 2 through 13, were inadequate for nationwide television service. As a result, the FCC stopped giving out construction permits for new licenses in October 1948. Most expected this "Freeze" to last six months, but as the allocation of channels to the emerging UHF technology and the eagerly awaited possibilities of color television were debated, the FCC's re-allocation map of stations did not come until April 1952, with July 1, 1952, as the official beginning of licensing new stations.

Other FCC actions hurt the fledgling DuMont and ABC networks. American Telephone and Telegraph (AT&T) forced television coaxial cable users to rent additional radio long lines, discriminating against DuMont, which had no radio network operation. DuMont and ABC protested AT&T's television policies to the FCC, which regulated AT&T's long-line charges, but the commission took no action. The result was that financially marginal DuMont was spending as much in long-line charge as CBS or NBC while using only about 10 to 15 percent of the time and mileage of either larger network.^[11]

The FCC's "Sixth Report & Order" ended the Freeze. It would take five years for the U.S. to grow from 108 stations to more than 550. New stations came on line slowly, only five by the end of November 1952. The Sixth Report and Order required some existing TV stations to change channels, but only a few existing VHF stations were required to move to UHF, and a handful of VHF channels were deleted altogether in smaller media markets like Peoria, Fresno, Bakersfield and Fort Wayne, Indiana to create markets which were UHF "islands." The report also set aside a number of channels for the newly emerging field of educational television, which hindered struggling ABC and DuMont's quest for affiliates in the more desirable markets where VHF channels were reserved for non-commercial use.

The Sixth Report and Order also provided for the "intermixture" of VHF and UHF channels in most markets; UHF transmitters in the 1950s were not yet powerful enough, nor receivers sensitive enough (if they included UHF tuners at all - they were not formally required until the 1960s All-Channel Receiver Act), to make UHF viable against entrenched VHF stations. In markets where there were no VHF stations and UHF was the only TV service available, UHF survived. In other markets, which were too small to financially support a television station, too close to VHF outlets in nearby cities, or where UHF was forced to compete with more than one well-established VHF station, UHF had little chance for success.

Denver had been the largest U.S. city without a TV station by 1952. Senator Edwin Johnson (D-Colorado), chair of the Senate's Interstate and Foreign Commerce Committee, had made it his personal mission to make Denver the first post-Freeze station. The Senator had pressured the FCC, and proved ultimately successful as the first new station (a VHF station) came on-line a remarkable ten days after the Commission formally announced the first post-Freeze construction permits. KFEL (now KWGN-TV)'s first regular telecast was on July 21, 1952.^{[12][13]}



Federal Communications Commission seen in Washington, D.C., in 1937. Seated (l-r) Eugene Octave Sykes, Frank R. McNinch, Chairman Paul Atlee Walker, Standing (l-r) T.A.M. Craven, Thad H. Brown, Norman S. Case, and George Henry Payne.



FCC Commissioners inspect the latest in television, December 1, 1939.

Telecommunications Act of 1996

In 1996, Congress enacted the Telecommunications Act of 1996, in the wake of the break-up of AT&T resulting from the U.S. Department of Justice's antitrust suit against AT&T. The legislation attempted to create more competition in local telephone service by requiring Incumbent Local Exchange Carriers to provide access to their facilities for Competitive Local Exchange Carriers. This policy has thus far had limited success and much criticism.^[14]

The development of the Internet, cable services and wireless services has raised questions whether new legislative initiatives are needed as to competition in what has come to be called 'broadband' services. Congress has monitored developments but as of 2009 has not undertaken a major revision of applicable regulation. The Local Community Radio Act in the 111th Congress has gotten out of committee and will go before the house floor with bi-partisan support,^[15] and unanimous support of the FCC.^[16]

By passing the Telecommunications Act of 1996, Congress also eliminated the cap on the number of radio stations any one entity could own nationwide and also substantially loosened local radio station ownership restrictions. Substantial radio consolidation followed.^[17] Restrictions on ownership of television stations were also loosened.^[18] Public comments to the FCC indicated that the public largely believed that the severe consolidation of media ownership had resulted in harm to diversity, localism, and competition in media, and was harmful to the public interest.^[19]

Modernization of the FCC's information technology systems

David A. Bray joined the Commission in 2013 as Chief Information Officer and quickly announced goals of modernizing the FCC's legacy information technology (IT) systems, citing 200 different systems for only 1750 people a situation he found "perplexing".^{[20][21]} These efforts later were documented in a 2015 Harvard Case Study.^{[22][23]} Bray himself shared regular public updates on the modernization efforts via @fcc_cio on Twitter^[24] and blogging.^{[25][26]} In 2016, Bray was named a World Economic Forum Young Global Leader^[27] in recognition of his modernization work at the FCC and for prior "leadership positions working on bioterrorism response, international security and how the 'internet of things' intersects with foreign policy"^{[28][29]} with the Centers for Disease Control and Prevention^[30] and national security counter-terrorism community.^[31]

At the Commission, Bray has openly encouraged opportunities to broaden the definition of public service to include citizen-led initiatives and public-private partnerships.^{[32][33]} He also has emphasized: "As IT accelerates its global distribution and ubiquitous availability, the importance of assuring the integrity of digital communications become paramount" and that communications support "national growth, prosperity, security, safety, and freedom."^{[34][35]}

Past chairs and notable commissioners

A complete list of commissioners is available on the FCC website.^[36] In addition, Frieda B. Hennock (D-NY) was the first female commissioner of the FCC.

Media policy

Broadcast television and radio

The FCC regulates broadcast stations, repeater stations as well as commercial broadcasting operators who operate and repair certain radiotelephone, television and radio stations. Broadcast licenses are to be renewed if the station meets the "public interest, convenience, or necessity". The FCC's enforcement powers include fines and broadcast license revocation (see FCC MB Docket 04-232). Burden of proof would be on the complainant in a petition to deny. Fewer than 1% of station renewals are not immediately granted, and only a small fraction of those are ultimately denied.

Cable and satellite

The FCC first promulgated rules for cable television in 1965, with cable and satellite television now regulated by the FCC under Title VI of the Communications Act. Congress added Title VI in the Cable Communications Policy Act of 1984, and made substantial modifications to Title VI in the Cable Television and Consumer Protection and Competition Act of 1992. Further modifications to promote cross-modal competition (telephone, video, etc.) were made in the Telecommunications Act of 1996, leading to the current regulatory structure.^[37]

Content regulation and indecency

Broadcast television and radio stations are subject to FCC regulations including restrictions against indecency or obscenity. The Supreme Court has repeatedly held, beginning soon after the passage of the Communications Act of 1934, that the inherent scarcity of radio spectrum allows the government to impose some types of content restrictions on broadcast license holders notwithstanding the First Amendment.^[38] Cable and satellite providers are also subject to some content regulations under Title VI of the Communications Act such as the prohibition on obscenity, although the limitations are not as restrictive compared to broadcast stations.^[39]

The 1981 inauguration of Ronald Reagan as President of the United States accelerated an already ongoing shift in the FCC towards a decidedly more market-oriented stance. A number of regulations felt to be outdated were removed, most controversially the Fairness Doctrine in 1987.

In terms of indecency fines, there was no action taken by the FCC on the case *FCC v. Pacifica* until 1987, about ten years after the landmark United States Supreme Court decision that defined the power of the FCC over indecent material as applied to broadcasting.^{[40][41]}

After the 1990s had passed, the FCC began to increase its censorship and enforcement of indecency regulations in the early 2000s to include a response to the Janet Jackson "wardrobe malfunction" that occurred during the halftime show of Super Bowl XXXVIII.^[42]

Then on June 15, 2006, President George W. Bush signed into law the Broadcast Decency Enforcement Act of 2005 sponsored by then-Senator Sam Brownback (now Governor of Kansas), a former broadcaster himself, and endorsed by Congressman Fred Upton of Michigan who authored a similar bill in the United States House of Representatives. The new law stiffens the penalties for each violation of the Act. The Federal Communications Commission will be able to impose fines in the amount of \$325,000 for each violation by each station that violates decency standards. The legislation raised the fine ten times over the previous maximum of \$32,500 per violation.^{[43][44]}

Media ownership

The FCC has established rules limiting the national share of media ownership of broadcast television or radio stations. It has also established cross-ownership rules limiting ownership of a newspaper and broadcast station in the same market, in order to ensure a diversity of viewpoints in each market and serve the needs of each local market.

Diversity

With the major demographic shifts occurring in the country in terms of the racial-ethnic composition of the population, the FCC has been criticized for ignoring the issue of decreasing racial-ethnic diversity of the media. This includes charges that the FCC has been watering down the limited affirmative action regulations it had on the books, including no longer requiring stations to make public their data on their minority staffing and hiring. In the second half of 2006, groups such as the National Hispanic Media Coalition, the National Latino Media Council, the National Association of Hispanic Journalists, the National Institute for Latino Policy, the League of United Latin American Citizens (LULAC) and others held town hall meetings^[45] in California, New York and Texas on media diversity as its effects Latinos and minority communities. They documented widespread and deeply felt community concerns about the negative effects of media concentration and consolidation on racial-ethnic diversity in staffing and programming.^[46] At these Latino town hall meetings, the issue of the FCC's lax monitoring of obscene and pornographic material in Spanish-language radio and the lack of racial and national-origin diversity among Latino staff in Spanish-language television were other major themes.

President Barack Obama appointed Mark Lloyd to the FCC in the newly created post of Associate General Counsel/Chief Diversity Officer.^{[47][48]}

Localism

After being successful in opening the FM band as a superior alternative to the AM band by allowing colleges and other schools to start ten-watt LPFM stations, the FCC banned new ones around 1980.

Numerous controversies have surrounded the city of license concept as the internet has made it possible to broadcast a single signal to every owned station in the nation at once, particularly when Clear Channel, now IHeartMedia, became the largest FM broadcasting corporation in the US after the Telecommunications Act of 1996 became law - owning over 1200 stations at its peak. As part of its license to buy more radio stations, Clear Channel was forced to divest all TV stations.

Digital television transition

To facilitate the adoption of digital television, the FCC issued a second digital TV (DTV) channel to each holder of an analog TV station license. All stations were required to buy and install all new equipment (transmitters, TV antennas, and even entirely new broadcast towers), and operate for years on both channels. Each licensee was required to return one of their two channels following the end of the digital television transition.

After delaying the original deadlines of 2006, 2008, and eventually February 17, 2009, on concerns about elderly and rural folk, on June 12, 2009 all full-power analog terrestrial TV licenses in the U.S. were terminated as part of the DTV transition, leaving terrestrial television available only from digital channels and a few low-power LPTV stations. To help U.S. consumers through the conversion, Congress established a federally sponsored DTV Converter Box Coupon Program for two free converters per household.

Wireline policy

The FCC regulates telecommunications services under Title II of the Communications Act of 1934. Title II imposes common carrier regulation under which carriers offering their services to the general public must provide services to all customers and may not discriminate based on the identity of the customer or the content of the communication. This is similar to and adapted from regulation of transportation providers (railroad, airline, shipping, etc.) and some public utilities. Wireless carriers providing telecommunications services are also generally subject to Title II regulation except as exempted by the FCC.^[49]

Telephone

The FCC regulates interstate telephone services under Title II. The Telecommunications Act of 1996 was the first major legislative reform since the 1934 Act and took several steps to de-regulate the telephone market and promote competition in both the local and long-distance marketplace.

From monopoly to competition

The important relationship of the FCC and the American Telephone and Telegraph (AT&T) Company evolved over the decades. For many years, the FCC and state officials agreed to regulate the telephone system as a natural monopoly.^[50] The FCC controlled telephone rates and imposed other restrictions under Title II to limit the profits of AT&T and ensure nondiscriminatory pricing.

In the 1960s, the FCC began allowing other long-distance companies, namely MCI, to offer specialized services. In the 1970s, the FCC allowed other companies to expand offerings to the public.^[51] A lawsuit in 1982 led by the Justice Department after AT&T underpriced other companies, resulted in the Breakup of the Bell System from AT&T. Beginning in 1984, the FCC implemented a new goal that all long-distance companies had equal access to the local phone companies' customers.^[52] Effective January 1, 1984, the Bell System's many member-companies were variously merged into seven independent "Regional Holding Companies", also known as Regional Bell Operating Companies (RBOCs), or "Baby Bells". This divestiture reduced the book value of AT&T by approximately 70%.^[53]

Internet

The FCC initially exempted "information services" such as broadband Internet access from regulation under Title II. The FCC held that information services were distinct from telecommunications services that are subject to common carrier regulation.

However, Section 706 of the Telecommunications Act of 1996 required the FCC to help accelerate deployment of "advanced telecommunications capability" which included high-quality voice, data, graphics, and video, and to regularly assess its availability. In August 2015, the FCC said that nearly 55 million Americans did not have access to broadband capable of delivering high-quality voice, data, graphics and video offerings.^[54]

On February 26, 2015, the FCC reclassified broadband Internet access as a telecommunications service, thus subjecting it to Title II regulation, although several exemptions were also created. The reclassification was done in order to give the FCC a legal basis for imposing net neutrality rules (see below), after earlier attempts to impose such rules on an "information service" had been overturned in court.

Net neutrality

In 2005, the FCC formally established the following principles: To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, Consumers are entitled to access the lawful Internet content of their choice; Consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement; Consumers are entitled to connect their choice of legal devices that do not harm the network; Consumers are entitled to competition among network providers, application and service providers, and content providers. However, broadband providers were permitted to engage in "reasonable network management."

On August 1, 2008 the FCC formally voted 3-to-2 to uphold a complaint against Comcast, the largest cable company in the US, ruling that it had illegally inhibited users of its high-speed Internet service from using file-sharing software. The FCC imposed no fine, but required Comcast to end such blocking in 2008. FCC chairman Kevin J. Martin said the order was meant to set a precedent that Internet providers, and indeed all communications companies, could not prevent customers from using their networks the way they see fit unless there is a good reason. In an interview Martin stated that "We are preserving the open character of the Internet" and "We are saying that network operators can't block people from getting access to any content and any applications." Martin's successor, Julius Genachowski has maintained that the FCC has no plans to regulate the internet, saying: "I've been clear repeatedly that we're not going to regulate the Internet."^[55] The Comcast case highlighted broader issues of whether new legislation is needed to force Internet providers to maintain net neutrality, i.e. treat all uses of their networks equally. The legal complaint against Comcast related to BitTorrent, software that is commonly used for downloading larger files.^[56]

In December 2010, the FCC revised the principles from the original Internet policy statement and adopted the Open Internet Order consisting of three rules^[57] regarding the Internet: **Transparency**. Fixed and mobile broadband providers must disclose the network management practices, performance characteristics, and terms and conditions of their broadband services; **No blocking**. Fixed broadband providers may not block lawful content, applications, services, or non-harmful devices; mobile broadband providers may not block lawful websites, or block applications that compete with their voice or video telephony services; and **No unreasonable discrimination**.

After setbacks in court, in April 2014 the FCC issued a Notice of Proposed Rulemaking regarding a path forward for The Open Internet Order. On November 10, 2014, President Obama recommended the FCC reclassify broadband Internet service as a telecommunications service in order to preserve net neutrality.^{[58][59][60]}

On February 26, 2015, the FCC ruled in favor of net neutrality by applying Title II (common carrier) of the Communications Act of 1934 and Section 706 of the Telecommunications act of 1996 to the Internet.^{[61][62][63]} The FCC Chairman, Tom Wheeler, commented, "This is no more a plan to regulate the Internet than the First Amendment is a plan to regulate free speech. They both stand for the same concept."^[64] Net neutrality is supported by 81% of Americans, according to a Washington Post poll. According to the poll, 81% of Democrats and 85% of Republicans said they opposed fast lanes.^[65]

On March 12, 2015, the FCC released the specific details of the net neutrality rules.^{[66][67][68]} On April 13, 2015, the FCC published the final rule on its new "Net Neutrality" regulations.^{[69][70]}

NSA wiretapping

When it emerged in 2006 that AT&T, BellSouth and Verizon may have broken U.S. laws by aiding the National Security Agency in possible illegal wiretapping of its customers, Congressional representatives called for an FCC investigation into whether or not those companies broke the law. The FCC declined to investigate, however, claiming that it could not investigate due to the classified nature of the program— a move that provoked the criticism of members of Congress.

"Today the watchdog agency that oversees the country's telecommunications industry refused to investigate the nation's largest phone companies' reported disclosure of phone records to the NSA," said Rep. Edward Markey (D-Mass.) in response to the decision. "The FCC, which oversees the protection of consumer privacy under the Communications Act of 1934, has taken a pass at investigating what is estimated to be the nation's largest violation of consumer privacy ever to occur. If the oversight body that monitors our nation's communications is stepping aside then Congress must step in."^[71]

Wireless policy

The FCC regulates all non-Federal uses of radio frequency spectrum in the United States under Title III of the Communications Act of 1934. In addition to over-the-air broadcast television and radio stations, this includes commercial mobile (i.e., mobile phone) services, amateur radio, citizen's band radio, theatrical wireless microphone installations, and a very wide variety of other services. Use of radio spectrum by U.S. federal government agencies is coordinated by the National Telecommunications and Information Administration, an agency within the Department of Commerce.

Commercial mobile service

Commercial mobile radio service (CMRS) providers, including all mobile phone carriers, are subject to spectrum and wireless regulations under Title III (similar to broadcasters) as well as common carrier regulations under Title II (similar to wireline telephone carriers), except as provided by the FCC.^[72]

Spectrum auctions

Beginning in 1994, the FCC has usually assigned commercial spectrum licenses through the use of competitive bidding, i.e., spectrum auctions. These auctions have raised tens of billions of dollars for the U.S. Treasury, and the FCC's auction approach is now widely emulated throughout the world. The FCC typically obtains spectrum for auction that has been reclaimed from other uses, such as spectrum returned by television broadcasters after the digital television transition, or spectrum made available by federal agencies able to shift their operations to other bands.

Unlicensed spectrum

Normally, any intentional radio transmission requires an FCC license pursuant to Title III. However, in recent decades the FCC has also opened some spectrum bands for unlicensed operations, typically restricting them to low power levels conducive to short-range applications. This has facilitated the development of a very wide range of common technologies from wireless garage door openers, cordless phones, and baby monitors to Wi-Fi and Bluetooth among others. However, unlicensed devices — like most radio transmission equipment — must still receive technical approval from the FCC before being sold into the marketplace, including to ensure that such devices cannot be modified by end users to increase transmit power above FCC limits.

White spaces

"White spaces" are radio frequencies that went unused after the federally mandated transformation of analog TV signal to digital. On October 15, 2008, FCC Chairman Kevin Martin announced his support for the unlicensed use of white spaces. Martin said he was "hoping to take advantage of utilizing these airwaves for broadband services to allow for unlicensed technologies and new innovations in that space."^[73]

Google, Microsoft and other companies are vying for the use of this white-space to support innovation in Wi-Fi technology. Broadcasters and wireless microphone manufacturers fear that the use of white space would "disrupt their broadcasts and the signals used in sports events and concerts."^[74] Cell phone providers such as T-Mobile USA have mounted pressure on the FCC to instead offer up the white space for sale to boost competition and market leverage.

On November 4, 2008, the FCC commissioners unanimously agreed to open up unused broadcast TV spectrum for unlicensed use.^{[75][76]}

Amateur radio

Amateur radio operators in the United States must be licensed by the FCC before transmitting. While the FCC maintains control of the written and Morse testing standards, it no longer administers the exams, having delegated that function to private organizations.

Broadcasting tower database

An FCC database provides information about the height and year built of broadcasting towers in the US.^[77] It does not contain information about the structural types of towers or about the height of towers used by Federal agencies, such as most NDBs, LORAN-C transmission towers or VLF transmission facilities of the US Navy, or about most towers not used for transmission like the BREN Tower. These are instead tracked by the Federal Aviation Administration as obstructions to air navigation.

Criticism for use of proprietary standards

The FCC has been criticized for ignoring international open standards, and instead choosing proprietary closed standards, or allowing communications companies to do so and implement the anticompetitive practice of vendor lock-in, thereby preventing a free market.

In the case of digital TV, it chose the ATSC standard, even though DVB was already in use around the world, including DVB-S satellite TV in the U.S. Unlike competing standards, the ATSC system is encumbered by numerous patents, and therefore royalties that make TV sets and DTV converters much more expensive than in the rest of the world. Additionally, the claimed benefit of better reception in rural areas is more than negated in urban areas by multipath interference, which other systems are nearly immune to. It also cannot be received while in motion for this reason, while all other systems can, even without dedicated mobile TV signals or receivers.

For digital radio, the FCC chose proprietary HD Radio, which crowds the existing FM broadcast band and even AM broadcast band with in-band adjacent-channel sidebands, which create noise in other stations. This is in contrast to worldwide DAB, which uses unused TV channels in the VHF band III range. This too has patent fees, while DAB does not. While there has been some effort by iBiquity to lower them,^[78] the fees for HD Radio are still an enormous expense when converting each station, and this fee structure presents a potentially high cost barrier to entry for community radio and other non-commercial educational stations when entering the HD Radio market.^[79]

Satellite radio (also called SDARS by the FCC) uses two proprietary standards instead of DAB-S, which requires users to change equipment when switching from one provider to the other, and prevents other competitors from offering new choices as stations can do on terrestrial radio. Had the FCC picked DAB-T for terrestrial radio, no separate satellite receiver would have been needed at all, and the only difference from DAB receivers in the rest of the world would be the need to tune S band instead of L band.

In mobile telephony, the FCC abandoned the "any lawful device" principle decided against AT&T landlines, and has instead allowed each mobile phone company to dictate what its customers can use.^{[80][81]}

Public consultation

As the public interest standard has always been important to the FCC when determining and shaping policy, so too has the relevance of public involvement in U.S. communication policy making.^[82] The *FCC Record* is the comprehensive compilation of decisions, reports, public notices, and other documents of the FCC, published since

1986.^[83]^[84]

History of the issue

1927 Radio Act

In the 1927 Radio Act, which was formulated by the predecessor of the FCC (the Federal Radio Commission), section 4(k) stipulated that the commission was authorized to hold hearings for the purpose of developing a greater understanding of the issues for which rules were being crafted. Section 4(k) stated that:

Except as otherwise provided in this Act, the commission, from time to time, as public convenience, interest, or necessity requires, shall... have the authority to hold hearings, summon witnesses, administer oaths, compel the production of books, documents, and papers and to make such investigations as may be necessary in the performance of its duties.

Thus, it is clear that public consultation, or at least consultation with outside bodies was regarded as central to the Commission's job from early on. Though it should not be surprising, the Act also stipulated that the Commission should verbally communicate with those being assigned licenses. Section 11 of the Act noted:

If upon examination of any application for a station license or for the renewal or modification of a station license the licensing authority shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said finding. In the event the licensing authority upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe.

Public hearings

As early as 1927, there is evidence that public hearings were indeed held; among them, hearings to assess the expansion of the radio broadcast band.^[85] At these early hearings, the goal of having a broad range of viewpoints presented was evident, as not only broadcasters, but also radio engineers and manufacturers were in attendance. Numerous groups representing the general public appeared at the hearings as well, including amateur radio operators and inventors as well as representatives of radio listeners' organizations. Interestingly,

While some speakers at the 1927 hearings referred to having received "invitations," Herbert Hoover's assistant observed in a letter at the time that "the Radio Commission has sent out a blanket invitation to all people in the country who desire either to appear in person or to submit their recommendations in writing. I do not understand that the Commission has sent for any particular individuals, however" [Letter from George Akerson, assistant to Sec. Hoover, to Mrs. James T. Rourke, Box 497, Commerce Period Papers, Herbert Hoover Presidential Library (March 29, 1927)] (FN 14)^[85]

Including members of the general public in the discussion was regarded (or at least articulated) as very important to the Commission's deliberations. In fact, FCC Commissioner Bellows noted at the time that "it is the radio listener we must consider above everyone else."^[85] Though there were numerous representatives of the general public at the hearing, some expressing their opinions to the commission verbally, overall there was not a great turnout of everyday listeners at the hearings.

Though not a constant fixture of the communications policy-making process, public hearings were occasionally organized as a part of various deliberation processes as the years progressed. For example, seven years after the enactment of the Radio Act, the Communications Act of 1934 was passed, creating the FCC. That year the Federal

Government's National Recovery Agency (associated with the New Deal period) held public hearings as a part of its deliberations over the creation of new broadcasting codes.^[86]

A few years later, the FCC held hearings to address early cross-ownership issues; specifically, whether newspaper companies owning radio stations was in the public interest.^[87] These "newspaper divorcement hearings" were held between 1941 and 1944, though it appears that these hearings were geared mostly towards discussion by industry stakeholders. Around the same time, the Commission held hearings as a part of its evaluation of the national television standard,^[88] and in 1958 held additional hearings on the television network broadcasting rules.^[89] Though public hearings were organized somewhat infrequently, there was an obvious public appeal. In his now famous "vast wasteland" speech in 1961, FCC Chairman Newton Minow noted that the commission would hold a "well advertised public hearing" in each community to assure broadcasters were serving the public interest,^[90] clearly a move to reconnect the Commission with the public interest (at least rhetorically).

See also

- Bleep censor
- Broadcast Standards and Practices (US)
- Censorship of broadcasting in the United States
- *Comcast Corp. v. FCC*
- *FCC Record*
- Frequency assignment authority
- Grandfather clause
- International Telecommunication Union
- List of telecommunications regulatory bodies
- National broadband plans from around the world
- Open spectrum
- Part 15 (FCC rules)
- Public Broadcasting Act of 1967
- Public, educational, and government access (PEG)

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External links

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- FCC Rules (http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title47/47tab_02.tpl) (CFR Title 47) from the Government Printing Office
- FCC (<https://www.federalregister.gov/agencies/federal-communications-commission>) in the Federal Register
- The FCC Record (<http://digital.library.unt.edu/explore/collections/FCCRD/>) from the UNT Digital Library



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